

7th, render it impossible to contend that that was putting the property completely in the market, in the manner and upon the terms prescribed by the decree. In point of fact, it was not put in the market at all, because there was on that day no market to put it in. In the absence of bidders, the sale was with great propriety postponed, without any attempt to dispose of the property.

Now, will it do to say that the property was sold for a fair price, and therefore the sale should be confirmed? The answer is, that when the decree directs "that the property shall be put in the market by advertising and offering it for sale," the trustee must follow the directions, but after he has done so, if it cannot be sold at public auction upon the terms specified, he may accept of a bid upon different terms, or he may dispose of it at private sale, and then it will be for the Court to say, when the trustee shall have made his report, whether, under all the circumstances, it ought to be ratified.

The true test of the value of property, is what it will bring in the market, and the interest of suitors requires that it shall be subjected to that test, and it would be dangerous for the Court, before that has been fairly tried, to enter into an examination of witnesses, who, however intelligent and unobjectionable in all respects, may not be able to supply the place of the only perfectly safe standard.

Upon the whole, then, though I see nothing in the evidence to induce a belief that the property sold at an undervalue, or that it would have brought more if sold in parcels, and although I am entirely satisfied that the sale was in all respects conducted with the most perfect fairness and propriety, yet still I consider it my duty to set it aside, and send the property again into the market, because in making the sale, the trustee did not act in conformity with one of the most important directions of the decree, and because in confirming it, I should be making a new, and in my opinion, a dangerous precedent.

FRANK H. STOCKETT, for the Exceptant.  
PRATT, for the Purchaser and Trustee.